



LEWIS WAGNER^{LLP}
Attorneys at Law

MEMO ENDORSED

Skilled Advocacy. Practical Solutions.™

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/1/2016

May 27, 2016

VIA ECF

Judge Valerie E. Caproni
United States District Court
Southern District of New York
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, New York 10007

**Re: *Debra Simmons et al. v. Guthy-Renker, LLC et al.*
Case No. 1:15-cv-10026 (VEC)**

Dear Judge Caproni:

Our firm represents Defendant Guthy-Renker, LLC in the above-referenced matter. We write in conjunction with counsel for Defendant WEN by Chaz Dean, Inc. ("Defendants") for the purpose of requesting that the Court stay this matter, including all discovery and briefing on Plaintiffs' Motion for Class Certification, until August 2, 2016, the day after the hearing on the Motion for Preliminary Approval of Class Settlement in the *Friedman* matter, venued in California (Case No. CV-14-06009-ODW).¹

Recently, the *Friedman* parties reached a tentative class-wide settlement.² Based on the *Friedman* Court's May 12, 2016 Order, the deadline for the parties to file their Motion for Preliminary Approval is June 24, 2016 and the Motion has been set for a hearing on August 1, 2016 at 1:00 p.m. Pacific Standard Time.³ Because the *Friedman* matter involves a class of plaintiffs asserting nearly identical (and often verbatim) allegations against Guthy-Renker, LLC and Wen by Chaz Dean, Inc. as those alleged within the *Simmons* Complaint, the *Friedman* settlement will subsume the claims within *Simmons* Complaint in the above-referenced matter in their entirety.

Moreover, on May 12, 2016, the *Friedman* Court granted Plaintiffs' Motion for Appointment as Interim Class Counsel, wherein the Court found "the appointment of interim of class counsel appropriate . . . [as] there are currently two pending actions based on the same

¹ See *Friedman* Docket, No. 145.

² See *Friedman* Docket No. 144 (Joint Status Report Regarding Mediation).

³ See *id.*



Judge Valerie E. Caproni
May 27, 2016
Page 2

allegations of misconduct against the same defendants, both of which seek to certify virtually identical classes.”⁴ Therefore, to “protect the significant amount of time, effort, and resources the parties have expended reaching this settlement, appointment of interim class counsel is necessary.”⁵

As such, Defendants respectfully request this Court stay the above-referenced matter until August 2, 2016 including all discovery and briefing on Plaintiffs’ Motion for Class Certification. The undersigned counsel conferred with Plaintiffs’ counsel and confirmed they are in agreement with the requested stay.

Request GRANTED. The case, including all discovery and briefing on class certification, is STAYED until August 2, 2016. On or before August 5, 2016, the parties must submit a joint letter to update the Court regarding the status of settlement in the Friedman matter.

SO ORDERED.

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE
June 1, 2016

LEWIS WAGNER, LLP

By: s/ Dina M. Cox
Dina M. Cox (admitted *pro hac vice*)
dcox@lewiswagner.com
Neal Bowling (admitted *pro hac vice*)
nbowling@lewiswagner.com
Janelle P. Kilies (admitted *pro hac vice*)
jkilies@lewiswagner.com

501 Indiana Avenue, Suite 200
Indianapolis, IN 46202
Tel: (317) 237-0500
Fax: (317) 630-2790

*Counsel for Defendant
Guthy-Renker, LLC*

⁴ See *Friedman* Docket No. 146, p. 4.

⁵ See *id.* Note, within the *Friedman* Court’s May 12, 2016 Order, the Clerk of the Court was directed to mail a copy of the Order to this Court.